

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

OPINION & ORDER

11-cv-341-wmc

ADVANCE AUTO BODY LLC,
SHAWN BIERD and KATRINA BIERD,

Defendants.

In an opinion and order dated January 3, 2013, the court ordered defendant Shawn Bierd to complete certain, specific IRS forms and file and serve them on or before January 31, 2013. (1/3/13 Opinion & Order (dkt. #56) 7.) The court warned that “[i]f Bierd fails to comply with this order, the court will incarcerate him until he so complies.” (*Id.*) On January 23, 2013, Bierd submitted two documents entitled “Writ of Mandamus” and “Writ of Error Coram Nobis” (dkt. ## 58, 59), containing the same frivolous arguments that the court previously rejected and rejects again now. (*See* 8/8/12 Opinion & Order (dkt. #37) 3 n.2.) Apparently, Bierd filed these documents in a misguided attempt to relieve his obligation to comply with the court’s January 3, 2013, Order and to forestall his arrest. This is confirmed by the government’s February 1, 2013, notification to the court that Bierd has not complied as required. (Dkt. #60.)

This case has a long history of Shawn Bierd repeatedly refusing to comply with federal tax laws, acknowledge this court’s jurisdiction over him and obey court orders, including a preliminary injunction, a motion to compel holding him in civil contempt and, most recently, the court’s January 3rd order, which unambiguously laid out the consequence of his further noncompliance. As a result, the court has no option but to

order Bierd's incarceration until he complies with this court's January 3, 2013, Order. *See, e.g., In re Grand Jury Proceedings*, 280 F.3d 1103, 1107 (7th Cir. 2002) (describing the court's authority to hold a party in civil contempt to "coerce the contemnor into complying with the court's demands"); *Gompers v. Buck's Stove & Range Co.*, 221 U.S. 418, 442 (1911) (explaining that key characteristic of civil as compared to criminal contempt is that under the former the contemnor may purge the contempt because he "carries the key of his prison in his own pocket").

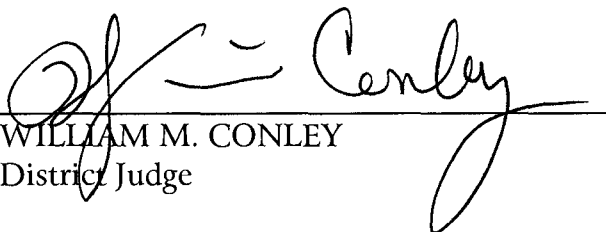
While Bierd has no right to court appointed counsel in these circumstances, *see Turner v. Rogers*, 131 S. Ct. 2507, 2520 (2011), he is encouraged to retain one. Alternatively, the court will nonetheless consider appointing one should he so request and fill out the attached financial form.

ORDER

Consistent with the court's January 3, 2013, Order, IT IS ORDERED that Shawn Bierd is to be incarcerated until he files and serves (1) Forms 940 for Fritz Weber and Trent Bierd for partial year June 1, 2009, through December 31, 2009, and the years 2010 through 2012; and (2) Forms 941 for Fritz Weber and Trent Bierd for the years 2010 through 2012.

Entered this 7th day of February, 2013.

BY THE COURT:


WILLIAM M. CONLEY
District Judge